

DEVELOPMENT REVIEW COMMITTEE

Tuesday, August 25, 2015

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, August 25, 2015**, beginning at 1:00 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Gail Creech

DRC MEMBERS

Mike Roberts, Sr. Administrator, Environmental Resources	Present
Emily Schemper, Comprehensive Planning Manager	Present
Kevin Bond, Planning & Development Review Manager	Present

STAFF

Steve Williams, Assistant County Attorney	Present
Matt Coyle, Senior Planner	Present
Devin Rains, Senior Planner	Present
Thomas Broadrick, Senior Planner	Present
Gail Creech, Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

Mr. Roberts announced Items 5 and 6 will be heard first.

MINUTES FOR APPROVAL

Mr. Roberts deferred approval of minutes to the next DRC meeting.

MEETING

New Items:

5. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY COMPREHENSIVE PLAN CREATING POLICY 101.5.31 TO ADDRESS NON-HABITABLE ARCHITECTURAL DECORATIVE FEATURES WITHIN THE OCEAN REEF COMMUNITY; AND CREATING POLICIES 101.5.32 AND 101.5.33 TO PROVIDE CERTAIN EXCEPTIONS TO THE HEIGHT LIMIT IN ORDER TO PROTECT PROPERTY FROM FLOODING AND REDUCE FLOOD INSURANCE COSTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING

FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING
FOR AN EFFECTIVE DATE.
(File 2015-006)

Mr. Roberts presented the staff report. Mr. Roberts reported that while working on the comp plan update the BOCC directed staff to maintain the existing adopted height and offshore island policies and to pull the proposed changes for further review and submit as a separate amendment. The proposed text amendment has been reviewed at two prior DRC meetings. Policy 101.5.30 adds mechanical equipment to the 35-foot limit while excluding certain structures. There are no exceptions to the height limitation in Airport districts. Policy 101.5.31 for Ocean Reef, which is a gated and isolated community with a distinct community character, includes non-habitable architectural decorative features that exceed the 35-foot height limit, but such features shall not exceed five feet above the building's roof line. There are Land Development Code amendments to reflect these policies. Policy 101.5.32 provides that certain buildings voluntarily elevated to meet or exceed the FEMA base flood elevation (BFE) may exceed the 35-foot height limit. New buildings voluntarily elevated to exceed the building's minimum required BFE may exceed the 35-foot height limit by three feet. For lawfully established existing buildings which do not exceed 35 feet and are voluntarily retrofitted to meet and/or exceed the building's minimum required BFE, an exception of a maximum of five feet above the 35-foot height limit may be permitted.

Bill Hunter, resident of Sugarloaf Key, asked for the rationale for the difference of an extra two feet between an existing building and a new building. Mr. Coyle explained that it is to allow a homeowner more room to get into compliance and go up. Mr. Hunter then asked for clarification on the definition of "retrofit." Mr. Roberts stated that retrofitting means making changes to an existing building to protect it from flooding or other hazards. Demolition and reconstruction of a new structure would not fit within that definition.

Dottie Moses, on behalf of the Federation of Homeowners Association, stated that the Federation consistently maintains its opposition to raising the height limit. Ms. Moses asked who is requesting the height increase. Mr. Roberts replied that this amendment was staff-initiated at the direction of the BOCC. Ms. Moses believes that the recent change in the code that allows setbacks being used for parking in URM zones will result in another floor of bedrooms being added under this amendment, which will increase density. The hurricane evacuation issue is always a concern in the community, also. Ms. Moses then asked where the exception provided for properties located in the AE 10 or VE 10 or greater FEMA flood zones originated. Ms. Schemper will look into that for Ms. Moses. Ms. Schemper added that this item will be brought back to the DRC one more time.

Joel Reid, on behalf of Ocean Reef Club and Ocean Reef Community Association, commented that these two associations have asked for height changes to address their community concerns. Mr. Reid expressed disappointment that some items Ocean Reef has been asking for have not been included in the staff report. Mr. Reid then asked for clarification regarding architectural elements exceeding 40 feet under Policy 101.5.33. Ms. Schemper explained that Policy 101.5.33 applies to lawfully established buildings that are already over 35 feet high. The intent is if it was a pre-existing feature, then the BOCC could approve it, but if it is a proposed architectural

feature an exception would not be given if it is over 40 feet. Mr. Reid stated Ocean Reef would like some protection in order for residents to be able to build back their structures without losing their views. Ms. Schemper pointed out that this amendment is to protect what is already in existence while also meeting the flood requirements. The existing intensity or density type of use would be protected. Policy 101.5.33 does not specifically address increasing slab-to-slab heights. That would have to be approved by the BOCC if over 40 feet. The mechanism of going through the approval process to the BOCC has not been thoroughly fleshed out. That would be in the Land Development Code portion of the amendment. Mr. Reid asked how rebuilding and doing modifications to the Ocean Reef Cultural Center and boat storage area would be handled. Ms. Schemper responded that the full amount of data in those issues has not been received by staff at this point.

6. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY COMPREHENSIVE PLAN POLICIES 101.5.8 AND 101.13.5 WITHIN THE FUTURE LAND USE ELEMENT AND POLICIES 207.1.2 WITHIN THE CONSERVATION AND COASTAL MANAGEMENT ELEMENT TO FURTHER CLARIFY THE DEVELOPMENT OF OFFSHORE ISLANDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN; PROVIDING FOR AN EFFECTIVE DATE. (File 2015-007)

Ms. Schemper presented the staff report. Ms. Schemper reported that this is another item originally contemplated during the comp plan update. Staff was directed by the BOCC to pull it out as a separate text amendment. This was already reviewed at two DRC meetings and has been continued to this meeting to get additional public review, input and discussion. The proposed changes are about where development in terms of TDRs and the transfer of ROGO exemptions are directed. Existing Policy 101.5.8 allows for the transfer of units based on certain criteria. The new policy expands the criteria and has additional standards to utilize the tier system. The sender site must be located in Tier I, II, or III-A, or any tier designation if it is within the military installation impact overlay. The receiver site must have a future land use category ability and zoning district that allows the use, must meet the adopted density standards, include all infrastructure, be located within Tier III and may not be within a V zone or a CBRS unit. The comprehensive plan specifies specific habitat types and the certain zoning districts that were allowed on sender site TDRs. The offshore island zoning category is specifically identified as an eligible sender site. The new proposed policy utilizes the tier designation to specify the sender site because this already accounts for both habitat types and zoning districts that were in the existing policy. The new policy states only parcels designated Tier III can be receiver sites and they must have an adopted maximum net density standard, which would be based on their zoning category. Ms. Schemper reviewed Policy 206.1.2, which prohibits development on offshore islands, and the definition of significant native upland habitat. This item will be brought back to the DRC one more time.

Julie Dick with Everglades Law Center, present on behalf of Florida Keys Environmental Fund and Last Stand, believes Policy 206.1.2 is redundant and is addressed somewhere else in the

comp plan. Ms. Dick suggested eliminating the entire policy because any confusion resulting from this policy leaves the door open to misinterpretation. Ms. Dick supports Policy 101.6.8 in making sure that offshore islands are not receiver sites.

Bart Smith, Esquire, commented that generally he appreciates the revisions made to the obtaining and transferring of TDRs. On behalf of FEB Corp. Mr. Smith stated most of the receiver site criteria in the staff report seems very logical. Mr. Smith does not, however, feel that the sixth criteria that blanketly prohibits offshore islands from being receiver sites is logical because there is not any data and analysis identifying the reasons why an offshore island cannot be a receiver site. Mr. Smith feels that the definition of “significant native upland habitat” is a well-thought-out definition. Mr. Smith stated everything in the proposed ordinance makes logical sense and is conforming except for the blanket prohibition of offshore islands.

Naja Girard, speaking on behalf of Last Stand, addressed Mr. Smith’s comments by responding that one thing different about offshore islands is that shallow waters surround the offshore islands and include benthic resources that the comp plan directs the County to protect. Encouraging development on offshore islands would require the acceptance of all the boating traffic that would be created as a result of that development. Ms. Girard agrees that Policy 206.1.2 is redundant and changes the normal way offshore islands are designated Tier I, which could result in confusion on its interpretation. Ms. Girard believes this weakens the protection of all offshore islands. Ms. Girard also believes there is not accurate data on what actually exists on these islands.

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM INDUSTRIAL (I) AND COMMERCIAL FISHING AREA (CFA) TO MIXED USE (MU), FOR PROPERTY LOCATED AT APPROXIMATE MILE MARKER 9, DESCRIBED AS A PARCEL OF LAND IN SECTION 21, TOWNSHIP 67 SOUTH, RANGE 26 EAST, BIG COPPITT KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00120940.000100, AND FROM INDUSTRIAL (I) TO COMMERCIAL 2 (C2) FOR PROPERTY LOCATED AT APPROXIMATE MILE MARKER 9, DESCRIBED AS FOUR PARCELS OF LAND IN SECTION 21, TOWNSHIP 67 SOUTH, RANGE 26 EAST, ROCKLAND KEY, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00122080.000000, 00122081.000200, 00122010.000000 AND 00121990.000000, AS PROPOSED BY ROCKLAND OPERATIONS, LLC AND ROCKLAND COMMERCIAL CENTER, INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-069)

Ms. Schemper presented the staff report. Ms. Schemper reported that this item is a zoning amendment to accompany a FLUM amendment which has already been transmitted by the BOCC to DEO. Staff has received the objections, recommendations and comments report on the FLUM amendment. DEO’s objection was that it was increasing the potential residential

development and should be revised to allow other residential uses. The original deadline for adopting that FLUM amendment was September 19, but staff has asked for an extension based on the applicant's delay and the new deadline is March 15, 2016. The current zoning amendment would be required to match the FLUM amendment. The applicant is required to revise the total FLUM amendment to include a comp plan policy that would limit any residential development on the site to affordable housing only. This affects only the northernmost L-shaped parcel on the map. The southern parcels are proposed to become commercial with no residential density. Today's discussion concerns the zoning portion of the amendment. The net change in development for the entire site will actually be a reduction in residential density. The Big Coppitt portion of the site would have an increase in affordable residential, but the proposed comp plan policy will limit all residential development to affordable housing on that site. Staff has found that any impact is not anticipated to have an adverse effect on community character. Staff has found no adverse effects for traffic circulation. There is sufficient capacity for the public facilities for potential development under this zoning amendment. Staff has found that the proposed amendment is consistent with the Monroe County comprehensive plan and the Land Development Code. The proposed zoning map amendment is necessary to be consistent with the proposed FLUM amendment that the BOCC has already recommended and transmitted to the State. Staff recommends approval of the proposed amendment. This is contingent on the adoption of the FLUM amendment.

Deb Curlee, resident of Cudjoe Key, asked what the Navy has to say about this amendment. Ms. Schemper replied that the portion of affordable housing is actually in the noise zone at the greatest distance compared to the rest of the property. Bart Smith, Esquire, agreed and added that the requirement to sound-attenuate to the level the Navy requests is specifically written in to the site-specific zoning.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY FUTURE LAND USE MAP FROM RESIDENTIAL CONSERVATION (RC) TO RECREATION (R) AND CONSERVATION (C), FOR PROPERTY DESCRIBED AS A PARCEL OF LAND IN SECTION 24, TOWNSHIP 59 SOUTH, RANGE 40 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, AND ALSO BEING A PORTION OF TRACT A, HARBOR COURSE SOUTH, SECTION ONE, OCEAN REEF PLAT NO. 14 (PLAT BOOK 7, PAGE 9), KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00573690.003900, AS PROPOSED BY OCEAN REEF CLUB INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY COMPREHENSIVE PLAN AND FOR AMENDMENT TO THE FUTURE LAND USE MAP; PROVIDING FOR AN EFFECTIVE DATE.

(File 2015-047)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY LAND USE DISTRICT (ZONING) MAP FROM NATIVE AREA (NA) TO PARKS AND REFUGE (PR) AND CONSERVATION DISTRICT (CD), FOR PROPERTY DESCRIBED AS A PARCEL OF LAND IN SECTION 24, TOWNSHIP 59 SOUTH, RANGE 40 EAST, KEY LARGO,

MONROE COUNTY, FLORIDA, AND ALSO BEING A PORTION OF TRACT A, HARBOR COURSE SOUTH, SECTION ONE, OCEAN REEF PLAT NO. 14 (PLAT BOOK 7, PAGE 9), KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00573690.003900, AS PROPOSED BY OCEAN REEF CLUB INC.; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR AMENDMENT TO THE LAND USE DISTRICT (ZONING) MAP; PROVIDING FOR AN EFFECTIVE DATE.
(File 2015-048)

Ms. Schemper presented the staff reports. Ms. Schemper reported that these two amendments are FLUM and zoning amendments that coordinates with one another for a parcel within Ocean Reef proposed by Ocean Reef Club. The site is 11 acres and currently has a FLUM designation of Residential Conservation with a zoning category of Native Area. The property owners would like to develop a park on a portion of the site and are requesting to change the FLUM to 9.5 acres of Conservation and a little over 1.5 acres of Recreation for the FLUM and, corresponding to that, 9.5 acres of Conservation zoning and 1.5 acres of Park and Refuge zoning. The density and intensity change for this amendment would be a decrease in both residential and non-residential density and intensity. There is no adverse impact on community character and no additional impact foreseen for any of the public facilities. Staff has found both proposed amendments would be consistent with the comp plan and the Land Development Code and is consistent with the principles for guiding development. These amendments support Ocean Reef's desire to increase some of the park and recreational space within the community based on an increase in the number of families with children currently in their community. If the corresponding FLUM amendment is transmitted to the State and adopted, then the zoning plan would be required to remain consistent with the FLUM. Staff is recommending approval of the FLUM amendment from Residential Conservation to Conservation and Recreation and staff is recommending approval of the zoning amendment from Native Area to Parks and Refuge and Conservation district. The zoning recommendation would be contingent on the approval and effectiveness of the proposed FLUM amendment that corresponds with this.

Joel Reid, the representative of the applicant, stated that Ocean Reef Club is always looking to enhance the community's experience and meet their needs for the community members.

Mitch Harvey, resident of Key Largo, asked whether Mr. Roberts had any concern with clearing of upland habitat of protected species of 1.71 acres for the sole purpose of providing a park for homeowners. Mr. Roberts replied that the applicant is required to coordinate directly with U.S. Fish & Wildlife for the protection of these species. The County's clearing requirements would fall back to the original development orders for Ocean Reef Club because it is not dictated by the tier clearing limits in the code.

4.PL OCEAN RESIDENCES, 97801 OVERSEAS HIGHWAY, KEY LARGO, MILE MARKER 98: A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE DEVELOPMENT OF A PROPOSED 24 ATTACHED DWELLING UNITS DESIGNATED AS

AFFORDABLE HOUSING, 28 DETACHED DWELLING UNITS OF MARKET RATE HOUSING, AND ASSOCIATED AMENITIES. THE SUBJECT PROPERTY IS DESCRIBED AS PARCELS OF LAND LOCATED IN SECTIONS 5 AND 6, TOWNSHIP 62 SOUTH, RANGE 39 EAST, KEY LARGO, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBERS 00090810.000000, 00090820.000000, 00090840.000000, 00090840.000100, AND 00090860.000000.
(File 2015-049)

Ms. Schemper presented the staff report. Ms. Schemper reported that this is a request for a minor conditional use permit which is required because the applicant is requesting to develop 24 attached dwelling units. Within the Urban Residential zoning category that use requires a minor conditional use permit. The development is reviewed by staff as a whole for consistency sake. The total proposal is requesting 24 attached dwelling units as affordable housing and 28 detached dwelling units as market rate housing. The site's current characteristics and zoning were described. The site has ROGO exemptions for 20 permanent dwelling units.

Ms. Schemper then listed the categories where staff has found either compliance is still to be determined or the site was found not in compliance. Compliance with the residential ROGO is to be determined because at the time of the building permit is when the applicant applies for their ROGO allocations. An additional eight market rate ROGO allocations and 24 affordable housing ROGO allocations would be needed. Permitted uses is listed as not in compliance because the attached residential dwelling units are permitted with the condition that sufficient common areas for recreation are provided to serve the number of dwelling units proposed to be developed. Compliance is to be determined on residential density and maximum floor area because the site requires 7.6 transferred development rights which are done at the time of the building permit. Compliance is to be determined on required open space because the calculations were not comparable of the upland area on the site plan. Mr. Roberts noted that the indicated shoreline setbacks were either incorrect or not clearly depicted on the site plan.

Ms. Schemper continued to report that most of the non-shoreline setbacks are in compliance at this point, but the setback lines shown on the site plan are not necessarily the correct lines in every situation. The surface water management will be dealt with for full compliance at the time of permit application. Mr. Roberts noted that there was conflicting information on the site plan regarding the depth to ground water. Ms. Schemper continued to report that there are inconsistencies on the site plan regarding the height of the fencing and privacy wall. The privacy wall shown on the site plan separates the site completely between the attached units and the detached units, which basically turns the parcel into two separate developments and they would each need to meet all of the land development regulations on their own. Some sort of connection is needed between the two. Compliance for flood plain, energy conservation and potable water is to be determined, as well as environmental design criteria and mitigation, at the building permit stage. The required parking is also affected by the separation between the two types of units on the site plan. The total number of parking spaces is sufficient if the site is viewed as a whole. The required bufferyards are not in compliance because the site plan shows some incorrect bufferyards. Mr. Roberts added that the property was rezoned from URM to UR and the URM boundary buffers are being shown.

Ms. Schemper continued to report that the square footage of the signage proposed has some issues and recommended that the signage be done separately as part of the fence permit at the time of the building permit. The access is currently under review by the County's traffic consultant. The site plan shows the County standards on U.S.1, but also needs to comply with FDOT standards. Compliance is to be determined on inclusionary housing at the time of the building permit because when the tenth permanent market rate unit gets its certificate of occupancy, a certificate of occupancy is required on at least three of the affordable housing units, and a proportional increase continues accordingly throughout the development. Given all of those items, staff still recommends approval. A list of 22 conditions required are listed in the staff report.

Jorge Cepero, present on behalf of the applicant, clarified that there is still one structure, a gatehouse, in the front of the property that was not demolished.

Robert Ginter, owner of an adjoining property, is concerned about the fencing and buffers to protect the neighborhood. Ms. Schemper explained that there are quite a few buffers on the site plan. There is an access off of First Street for a portion of the property. Ms. Schemper will make the site plan available to Mr. Ginter at the end of today's meeting.

Mitch Harvey, resident of Key Largo, is concerned that this is the one time that the public has a chance to review this proposal and there are so many items still not deemed to be in compliance. Ms. Schemper explained that there is a 30-day notice that goes out that says the Planning Director intends to issue the minor conditional use permit, as well as a legal ad. The Planning Director's decision will not be made until these items are all fulfilled. The revised proposal will be available through the Planning Department.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 2:32 p.m.